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**STATE AND LOCAL GOVERNMENT FINANCE:  
A Selective Annotated Bibliography**

James Jay Brown  
Associate Professor of Law  
University of Missouri - Kansas City

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STATE AND LOCAL GOVERNMENT FINANCE:  
A SELECTIVELY ANNOTATED BIBLIOGRAPHY

by

James Jay Brown  
Associate Professor of Law  
University of Missouri-Kansas City

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Emanating from my efforts to fashion a seminar in state and local government finance (not simply taxation) for J.D. and LL.M. candidates, this bibliography brings together all of the materials (books, studies, and articles from journals in law, business, public administration, economics and the social sciences) deemed to be directly and indirectly relevant to such a topic. Not too surprisingly, municipal finance contains subjects of interest for nearly everyone involved in land use planning, local government

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law and environmental problems. It has become a multi-disciplinary field which combines economics, statistics, public and business administration, political science, sociology and the law. Thus, this collection should be a helpful research guide to theoreticians and practitioners in each of these fields.

The entries annotated were selected randomly for their authoritativeness and potential usefulness. No attempt to be complete or render a judgment on the selected works has been made.

The author-compiler would appreciate notification of omissions, errors and ways of improving the next compilation.

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The plan in Ann Arbor was adopted in 1956 and established by ordinance. It requires all improvements be financed by 100% assessment. The basis for that decision was that the city was expanding so rapidly it could not afford to finance the expanded improvements and still provide services to the residents. The author dealt with various problems and applications of the policy and concludes it is a good method of accomplishing the task for the rapidly expanding city, but that there is much room for argument. It is a good article because it deals with a plan for financing the spread-city or new city situation where money is of crucial importance. The problem with this approach is that there is no accounting for the benefit to non-adjacent citizens in making the improvements. Of course, usually the assessment is made to the developer and reflected in the purchase price.

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An excellent article: It offers solutions while also giving extensive technical explanation through the example of the state of Kentucky.

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The article is just as its name implies. It discusses what happens when there is a public debt created. While it too is a very scholarly, economic article, it can be more easily grasped it seems. The basic premise is that all aspects should be considered and it relates the notion the voter has of public debt compared with its actual impact. It emphasizes that borrowing causes a tax in the future and states that the residents understand that, but questions if future residents will be willing to accept the debt. There is used the example of financing a war with public indebtedness and this, it is shown is not a favorable use, therefore, indicating other uses may be favorable. The article is of use for establishing the background on debt creation through sale of public bonds. It can be used effectively in analogizing with the industrial aid bond issues.

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This is a British publication and of value for that comparative reason as well as the treatment of the article. The particular article is written by a New York correspondent. Pointed out is the bad history of financing private industry with public debt in the U.S. during the 1840's, 1870's and 1920's. Billions of these bonds were defaulted. It sets out the provisions of such financing now and seems to be a warning to heed past errors. The perspective is an interesting one from a not so capitalistic nation. It shows us what someone from another country sees when he looks at public bonds for industrial development. It can be an augment to research on the public purpose doctrine.

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This article also deals with the burden of future residents in meeting bond obligations. It analyzes the problem and concludes it is a worthy means of financing. It talks of the Bowen-Davis-Kopf Thesis that private consumption falls by the level of the financing and discusses that theory. It speaks of the Maguise Inter-Generation Example as to the impact on the future. It also deals with the Buchanan Thesis where the idea is the future burden causes a wasteful expenditure. The value of this article is its presentation of the three theories in short form so we can do further investigation into them if needed. It further seems that the article has some use in connection with the public purpose doctrine in that it may be some basis for argument that bonds have such an impact on future generations. Industrial aid bonds can be so risky as to be violative of the public purpose doctrine, also.

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The article includes an analysis of the utility of interstate compacts. Types of compacts include natural resources development, regulatory, self-sustaining proprietary service (e.g., N.Y. Port Authority), and non-self-sustaining proprietary service (e.g., Area Transportation Authority). Financing can be handled on a donation basis (e.g., the Delaware River Basin Compact) or through tax financing, though, in the latter case there may be state constitutional problems. Federal participation in such compacts may also be feasible under the U.S. Constitution. The author argues that special Federal regional taxation to support interstate compact activities would be constitutionally permissible (reference is made to the Federal tax power, the Uniformity Clause, judicial interpretation, the Binns precedent (194 U.S. 486) (1904), the purpose of the Uniformity Clause, and policy considerations) and concludes that the Federal-Interstate compact could be a model for regional centralization.

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Appeal, 25 U. Pitt. L. Rev. 653, 1964.

Whelan. Purse Strings, Payments and Procurements, Pub. L.  
322, 1964.

Wright and Marker. A Half-Century of Local Finances: The Case of Iowa, 17 Nat'l. Tax J. 274, 1964.

This article represents a trend analysis of local finances in Iowa. Particularly, it is concerned with local expenditures and property tax levies for the fifty years from 1910 to 1960. By computing and charting expenditures as a proportion of personal income as a basis for identifying the changing scope of local government in Iowa, the authors were able to ascertain that the scope in recent years has been rather stable at a level about equal to that of the 1920's. From this it was concluded that finances, and thus property tax levies, are influenced by and respond to social-economic forces and therefore that the popular willingness to use the property tax as a source of revenue is closely associated with the prosperity levels of the state's economy. And secondly, despite problems of administration and perennial protest, the property tax has remained a large, significant and expanding source of revenue for local units in Iowa. Thus, the authors conclude that if the property tax in Iowa retains reasonable amounts of flexibility and productivity as manifested by past conditions and attitudes, it should hold adequate and true for the future.

Zubrow. Recent Trends and Developments in Municipal Finance, 45 Pub. Mgt. 247, November 1963.

#### ARTICLES 1965-1966

Abbey. Municipal Industrial Development Bonds, 19 Vand L. Rev. 25, 1965.

This article is an indepth, erudite treatise of the whole of the law and exigencies surrounding the industrial development bond question. Starting with the grandfather of modern day legislation authorizing the issuance of such bonds, Mississippi's 1936 "balance agriculture with industry law," the article proceeds to trace the historical and legislative development of the bond. Next, the author moves into the area of Federal and State constitutional challenges to the bonds, where the courts' attitudes are depicted as shifting from strict denial to almost complete acceptance by the mid-1960's. From this point the author moves through discussions involving enabling legislation, lease requirements and other necessary documentation, Federal income tax obstacles, SEC regulations, Federal bankruptcy act considerations, negotiable instruments law and UCC stipulations and factors of eminent domain. Unfortunately, since the publication of the article in 1965, Section 103 of the 1954 IRC has been amended to check abuses of the tax exemption feature (something the author pointed out could happen

if abuses continued) and thus much of the tax information is outdated. To varying degrees, comments with respect to SEC regulations, and to some extent to the bankruptcy act, are likewise outdated. Albeit, the article stands in good stead for the most part and in its comprehensiveness gives one a fine honed feeling for the changing climate relative to industrial bonds. In any event, the article tends to prove that the industrial bonds achieve their purpose, i.e., they act as a stimulus to the local economy in innumerable ways and in an invaluable fashion. As the author states, industrial bonds have come a long way from a small, depression-born measure in Winona, Mississippi to the million dollar projects evidenced in many of today's cities. As mentioned once already though, this article must be read with regard for and in the perspective of recent changes to the IRC, SEC regulations, etc. Such changes have rendered many of the author's arguments mute and stolen much of his thunder.

Abend. Federal Aid to Municipal Transportation: Salvation or Pandora's Box?, 26 Fed. B. J. 265, 1966.

Bahl and Saunders. Determinants of Changes in State and Local Government Expenditures, 18 Nat'l. Tax J. 50, March 1965.

Banovetz. Metropolitan Subsidies - An Appraisal, 25 Pub. Adm. Rev. 297, December 1965.

Barr and Davis. An Elementary Political and Economic Theory of the Expenditures of Local Governments, 33 So. Econ. J. 149, October 1966.

Blackburn. Intangible Taxes: A Neglected Revenue Source for States, 18 Nat'l. Tax J. 214, 1965.

Booms. City Governmental Form and Public Expenditure Level, 19 Nat'l. Tax J. 187, 1966.

Bowmar. The Anachronism Called Debt Limitation, 52 Iowa L. Rev. 863, 1967.

Brazer. Michigan's Fiscal Outlook, II Wayne L. Rev. 430, 1965.

Bridges. State and Local Inducements for Industry, 18 Nat'l. Tax J. 1, 1965.

Bronder. Detroit Metropolitan School Finances - The Revenue Problem, 19 Nat'l. Tax J. 399, 1966.

Candilis. Revenue Sharing; a Solution to State Financial Problems, 59 Banking 39, August 1966.

Carovano. Financing Public Higher Education, 1969-1970, 19  
Nat'l. Tax J. 125, 1966.

Comment. Constitutional Restrictions Upon Municipal Indebtedness, Utah L. Rev. 462, 1966.

Utah constitution's restrictions can be avoided in several ways, which are sketched. Recommendations for change are presented.

Comment. Ohio's Local Government Fund, 15 Clev-Mar L. Rev. 375, May 1966.

The fund seems to operate as a state revenue-sharing program. The fund was established during the 1930's to help local governments compensate for property tax losses. Funds go from the state to various county "budget commissions", which then distribute the funds to jurisdictions within the respective counties according to need. However, "need" criteria are feebly defined. A tax effort provision, which seems inadequate, was added in 1957.

Comment. "Public Purpose" in Municipal Financing Plans, 42 Wash. L. Rev. 294, October 1966.

This is a "Recent Developments" piece. In Brandes v. City of Deerfield Beach, 186 So.2d 26, (Fla., 1966), it was held that municipal bonds could not be used to finance construction of a major league baseball training facility. There was no "public purpose" showing, and therefore the municipality could not assess taxes or borrow to help with facility financing. A major problem was lack of legislative findings on the public purpose question.

Comment. Requirement of Public Use for Expenditure of Public Funds: A Reappraisal of the Narrow Doctrine, 28 U. Pitt. L. Rev. 329, 1966.

What is the test for public use in this context? It is virtually identical to the eminent domain test. But "public use" is not a readily definable term, by intention. The narrow view is that the public, or at least a substantial segment of the public, must be an actual user of the service, facility, commodity, etc., for which the expenditure is to be made. Major exceptions occur relative to exploitation of natural resources, to public utilities, and to industry in general. Urban renewal and public housing expenditure approval signalled a break from the narrow view as to expenditures not within the usual exceptions. The liberal view requires merely that the expenditure be for the public benefit, advantage, or convenience. This is, generally, the Federal approach and the current trend. The author urges a return to the narrow view, with different exceptions.

Curran and Shannon. Positive and Negative Tax Credits - a New Dimension in Intergovernmental Relations, 19 Nat'l. Tax J. 18, 1966.

Davies. Financing Urban Functions and Services, 30 Law and Cont. Prob. 127, 1965.

Seeing the urban financial crunch as a solvable problem, if approached piecemeal, the author first sets out various theoretical problems faced by today's metropolitan areas --some encompassing over 1,000 separate local governments --and then systematically proceeds to outline a partial conceptual solution whereby the allocation of resources to public goods would be analogous to that which would exist if public goods had all of the characteristics of private goods. Then, after a cursory discussion of the suburban-urban exploitation hypothesis and infra-metropolitan problems with industry, the article launches into an in-depth analysis of urban expenditures/revenues as they relate to the over-all monies pinch hovering over municipal treasuries..

In the author's opinion, with the rising expectations of the urban population and the increasing complexity of financing the same, what is needed is a more basic and applied research into metropolitan problems. He feels this is a mandatory requisite if rational, albeit temporary, solutions are to be found for urban problems.

Davies and Haines. Political Approach to a Theory of Public Expenditure: The Case of Municipalities, 19 Nat'l. Tax J. 259, 1966.

Deran. Earmar King and Expenditures: A Survey and a New Test, 18 Nat'l. Tax J. 354, 1965.

Hansen. Central-Local Cooperative Financing for Local Public Investment: Can the Belgian Experience Be Borrowed?, 26 Pub. Ad. Rev. 169, 1966.

Herring and Miller. Florida Public Bond Financing - Comments on the Constitutional Aspects, 21 U. Miami L. Rev. I, 1966.

Hill. Sewers and Drains, 115 L. J. 171, 187, 1965.

Johnson. Fiscal Reform for Cities, 48 Pub. Mgt. 25, February 1966.

Kee. Central City Expenditures and Metropolitan Areas, 18 Nat'l. Tax J. 337, 1965.

Macchiarola. Local Finances Under the New York State Constitution with an Emphasis on New York City, 35 Fordham L. Rev. 263, December 1966.

Manvel. Paying the Urban Bill, 54 Nat'l. Civic Rev. 16, January 1965.

McKinlay. Need for Legislative Control over Public Debenture Borrowing, New Zealand L. J. 59, 1966.

The need arises in order to protect the lender further.

Morris. Some Thoughts on the Determinants of State and Local Expenditures, 19 Nat'l. Tax J. 95, 1966.

Nanjundappa. Trends in Resource Transfer from the Union to the States--A Case for Lesser Centralization and More Flexible Scheme of Devolution, 14 Indian Econ. J. 353, October/December 1966.

Nichols. Comment: How Not to Contest Special Assessments in California, 17 Stan. L. Rev. 247, 1965.

O'Leary. Consolidated Fund and Appropriation Bills, 16 No. Ire. L. Q. 67, 1965.

Ragan. State Supervision of County Finance in Kentucky, 55 Ky. L. J. 132, 1966.

Rosen and Norton. Lottery as a Source of Public Revenue, 44 Taxes 617, 1966.

Rossmiller. Equalization Objective in State Support Programs: An Analysis of Measures, Need and Ability, 18 Nat'l. Tax J. 362, 1965.

Sato. Municipal Occupation Taxes in California: The Authority to Levy Taxes and the Burden on Intrastate Commerce, 53 Cal. L. Rev. 801, 1965.

Scott. Financing of State and Local Government Capital Expenditures, II Construction Rev. 4, October 1965.

Sentell. Some Legal Aspects of Local Government Purchasing in Georgia, 16 Mercer L. Rev. 371, Spring 1965.

The title fully explains the scope of the article.

Shipman. Projection of Washington's Financial Needs, 39 Wash. L. Rev. 976, January 1965.

This is one of six articles in 39 Wash. L. Rev. which comprise a state tax symposium. The other articles are entitled "The Washington Tax System: How It Grew," "The Washington Tax Structure as Viewed by the Consumer," "Tax Problems from the Business Point of View," "State and Local Tax Problems from the Labor Point of View," and "Tax Problems from the Agricultural Point of View."

Spiegel. Financing Private Ventures with Tax-Exempt Bonds: A Developing "Truckhole" in the Tax Law, 17 Stan. L. Rev. 224, January 1965.

The article documents the inequities. In 1962, for example, state and local governments paid out to holders of such bonds \$2,432,000,000.

Tew. Industrial Bond Financing and the Florida Public Purpose Doctrine, 21 U. Miami L. Rev. 171, Fall 1966.

The author contends that the doctrine is too restrictive.

Tilden. Public Inducements for Industrial Location: A Lesson from Massachusetts, 18 Maine L. Rev. I, 1966.

Why Big City Financing Is in a Mess. Bus. Week 36, April 23, 1966.

Woodard and Brady. Inductive Evidence of Tax Capitalization, 18 Nat'l. Tax J. 193, 1965.

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Abney. Our Tax Structure and Its Inequities, 18 Ga. Mun. J. 6, March 1968.

Adams and Fish. Comments on the Impact of Federal Tax-Sharing on Economic Stabilization, 8 Neb. J. Econ. Bus. J. 3, Winter 1968-69.

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Asch. Some Implications of Sales Tax Reciprocity, 21 Nat'l. Tax J. 176, 1968.

Bahl. A Land Speculation Model: The Role of the Property Tax as a Constant to Urban Sprawl, 8 J. of Regional Sci. 199, Winter 1968.

Barnes. Capital Improvement Programming, 17 Ariz. 8, November 1968.

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Baumol. Macro-Economics of Unbalanced Growth: The Anatomy of Urban Crisis, 57 Am. Econ. Rev. 415, June 1967.

Bishop. The Effects of Specific and Ad Valorem Taxes, 82 Q. J. Econ. 198, May 1968.

Bowmar. Anachronism Called Debt Limitation, 52 Iowa L. Rev. 863, April 1967.

The article includes a history of the development of debt limitation requirements, and an analysis of major means of avoiding the limitations. The means are (a) creation of special districts, (b) self-liquidating devices such as benefit districts (cost of improvement borne by user, as is ideally the case in special assessments), (c) contingent obligation devices (for example issuance of a long-term lease in exchange for cash), and (d) creation of a public authority or authorities. (37 pp; 160 fns)

Bratter. Two Views on Bond Underwriting: Two Viewpoints on What Would Result from Senator Proxmire's Bill, 30 Banking 52, October 1967.

Brazer. The Federal Government and State-Local Finances, 20 Nat'l. Tax J. 155, June 1967.

Brown. Municipal Finances and Annexation, 48 S. W. Soc. Sci. Q. 339, December 1967.

Brown and Brown. Obstacles to the Adoption of Land Value Taxation, 27 Am. J. Econ. Soc. 387, 1968.

Browne. Bonded Indebtedness and the Property Tax, 46 Tax Dig. (Cal.) 20, Second Quarter, 1968.

Bruno. Calling the Shots on the Cities, Bus. Week 88, September 2, 1967.

Clark. Local Government Bond Ratings, 34 Pop. Gov't. 20, March 1968.

Comment. Amended Section 103: The Industrial Development Bond Loophole Further Restricted, 30 U. Pitt. L. Rev. 180, 1968.

Comment. Financing Industrial Development with Municipal Revenue Bonds, U. Ill. L. J. 331, 1967.

Comment. Industrial Revenue Bonds, 4 Willamette L. J. 517, 1967.

Comment. Local Government-Airport not a "Necessary Expense" within Meaning of Article VII, Section 6 of North Carolina Constitution, 46 N.C.L. Rev. 188, December 1967.

Comment. Municipal Corporations - Industrial Revenue Bonds - South Carolina's Enabling Act Declared Constitutional, 20 S.C.L. Rev 106, 1968.

Comment. Tax Exempt Status of Local Government Bonds Used in Arbitrage Transactions, 35 Geo. Wash. L. Rev. 574, March 1967.

Use of such bonds for arbitrage purposes is not an indication of vigorous attention to public policy consequences of the practice, nor does the practice seem to comport with the purpose of section 103 of the IRC.

Comment. Use of Special Assessment Districts and Independent Special Districts as Aids in Financing Private Land Development, 53 Cal. L. Rev. 364, 1965.

Construction of "Taxable Property" on Municipal Debt Limitation Statues, 72 Dick. L. Rev. 619, Summer 1968.

Cook. Effects, Problems, and Solutions of Central Collection of Municipal Income Taxes, 19 Case W. Res. L. Rev. 900, June 1968.

Copeland and Eitemar. Federal Income Taxation and Immunity of Municipal Bond Interest, 15 Bus. Topics 54, Winter 1967.

Crihfield and Bell. Budgeting for State and Local Services, 379 Annals Am. Acad. Pol. Sci. 31, 1968.

Curran. Federal-Local Financial Relations, 25 Rev. Soc. Econ. 1834, September 1967.

Deran. Tax Structure in Cities Using the Income Tax, 21 Nat'l. Tax J. 147, June 1968.

Dobson. A Note on the Alternative Uses and Yields of Idle Public Funds, 21 Nat'l. Tax J. 304, 1968.

Dve. The New State Sales Tax, 21 Nat'l. Tax J. 266, 1968.

Fairbanks. Local Government Indebtedness, Ill. Gov't. I, November 1967.

Gabler and Brest. Interstate Variations in Per Capita, Highway Expenditures, 20 Nat'l. Tax J. 78, 1967.

Goetz. Earmarked Taxes and Majority Rule Budgetary Processes, 58 Am. Econ. Rev. --, March 1968.

Goodling. The New Status of Industrial Aid Bonds, Fed. Res. Boston. 2, November 1968.

Gramlich. Alternative Federal Policies for Stimulating State and Local Expenditures, 21 Nat'l. Tax J. 119, 1968.

Gulick. The Financial Plight of the Cities, 55 Curr. Hist. 333, December 1968.

Hamilton. "Districts" - What Are They, 42 Cal. SB J. 119, 1967.

Harriss. Efficiency in State and Local Government Expenditures, 379 Annals Am. Acad. Pol. Soc. Sci. 39, 1968.

Henderson. Local Government Expenditures: A Social Welfare Analysis, 50 Rev. Econ. and Stat. --, May 1968.

Henley. Land Value Taxation in California, 27 Am. J. Econ. and Soc. 377, 1968.

Herber. Unconditional Revenue-Sharing as a Solution to Fiscal Imbalance, 8 Q. Rev. Econ. Bus. 43, 1968.

Hicks. Autonomous Revenue for Local Government, 6 W. Econ. J. 117, June 1968.

Hill. Fair Share Gov't., 33 Am. Co. Gov't., 33 November 1968.

Holtmann. Migration to the Suburbs, Human Capital, and City Income Tax Losses: A Case Study, 21 Nat'l. Tax J. 326, 1968.

Honea. Southern Municipalities Feel the Pinch of Restrictive Monetary Policy, 53 Fed. Res. Atlanta 82, June 1968.

Horowitz. How New York Sold Mass Transport to the Voters, 164 Ry. Age 18, March 4, 1968.

Januta. The Municipal Revenue Crisis: California Problems and Possibilities, 56 Cal. L. Rev. 1525, November 1968.

Using the financial crisis apparent in California cities as a sounding board for championing the wide-spread use of municipal taxation to relieve such crises, the author proceeds to set out the various needs for such a revenue collection device while also listing the inadequacies of today's cities' major source of income--the property tax. By citing the inequalities inherent to the property tax, the article aptly shows the necessity for renovating the existing structure of the property tax. Coupled with this thought and augmenting the same, is the suggestion that a municipal levy on income earned within the city would be one, if not the one, elixir suitable to cure present urban ills. For example, the property tax in some areas has loomed so large that it has consumed such a large portion of farming income that it is no longer profitable to farm the land; forced elderly homeowners living on a fixed income to sell out and move elsewhere; and discouraged rebuilding and remodeling once a slum condition has arisen. This readily manifests the circumstance that today's wealth has no relationship to ownership of property, and specifically of real property, on which the lion's share of the property tax burden falls. The author suggests almost ethereal credence in the municipal income tax to attenuate the discriminatory impact of the property tax and to evenly distribute the burden of supporting city services beyond the urbanite. Such a tax would represent the sine qua non for the suburbanite's 9-5 use of the city's services and in effect stem the decay rampant in the inner city. The major problem facing municipalities desirous of inaugurating a city income tax is that of state legislative interference justified as a required protection of affected non-city residents. One way around this is the occupational license tax scheme already imposed in various cities. In any event, the author feels there is justification and authority for both the city income tax and the occupational license tax. In that vein, it is the author's further opinion that either would contribute substantial supplemental revenue to that raised by a fairly re-apportioned property tax, and that one or the other ought to be enacted by every city threatened by a blighted treasury or just one with justice in mind for their own heavily burdened resident city taxpayers.

Johnson and Farnsworth. Monetary Policy and State and Local Borrowing, 9 U. Mo. Bus. and Gov't. Rep. 29, November/December 1968.

Karasik. Public Works and the Economic Development Act of 1965 --a Domestic Marshal Plan, 22 Bus. L. 617, April 1967.

The article's title tends to overstate the domestic value of EDA programs. EDA provides for some Federal assistance where an overall economic development program (OEDP) is first developed by the locality. Generally, EDA is an industrial development tool of quite limited effectiveness in urban areas, though it has been used there. The program is designed essentially for rural areas.

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Kee. State and Local Fiscal Systems and Municipal Expenditures, 27 Pub. Adm. Rev. 39, March 1967.

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Little. Planning for Small Towns Lacking Growth Potential, 14 Mun. S. 12, December 1967.

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Maier. The City and the Suburb, 35 Tax Policy 2, July/August 1968.

Martori and Bliss. Taxation of Municipal Bond Interest - "Interesting Speculation" and One Step Forward, 44 Notre Dame L. 191, December 1968.

Maxwell and Aronson. The State and Local Capital Budget in Theory and Practice, 20 Nat'l. Tax J. 165, June 1967.

Here the authors criticize Professor A. Musgrave's Theory of Public Finance, i.e., "pay-as-you-use" finance. Musgrave's hypothesis is that the nature of the pay-as-you-use principal is such that it enables repayment of public debt as the benefits from the initial expenditures are being exhausted and thereby the generation (s) which consume the public durables financed are the same generations which pay for them.

To the authors this seems to be a non-operational and unrealistic argument due to two facts. First, it assumes that local governments can match payment with benefits by generations, and secondly, Musgrave's assumption of discontinuity of spending is seldom appropriate. The authors rationalize that even assuming expenditures on public durables are fairly steady over time, then loan finance would not be needed to achieve inter-generation equity because it could equally well be served by "pay-as-you-go" finance. But, the article points out that inter-generation equity is tenuous because of the metamorphose ways of generation composition. Thus, it is the authors' feeling that finance by pay-as-you-go is the intelligent way to proceed.

Maxwell and Aronson. State and Local Capital Budget in Theory and Practice: Reply, 21 Nat'l. Tax J. 210, June 1968.

McGouldrick and McGouldrick. Monetary Restraint and Borrowing and Capital Spending by Large State and Local Governments in 1966, 54 Fed. Res. Bull. 552, July 1968.

McMurry. Unmet Fiscal Needs of Georgia's Cities, 18 Urb. Ga. 12, December 1968.

Merrill and Klein. American Casualty Company versus Town of Shattuck: A Statutory Bond Payment Problem and Speculations Engendered Thereby, 20 Okla. L. Rev. 135, May 1967.

Case in question is at 228 F. Supp. 834. A Public works contract was let by the Shattuck, Oklahoma, city government, the contractor defaulted, and problems ensued. The city prevailed. E. A. Klein is the Shattuck town attorney.

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Morley. What's Wrong with the Way We Raise Revenues?, 55 Nation's Bus. 27, June 1967.

Mossin. Taxation and Risk-Taking: An Expected Utility Approach, 35 Econ. 74, February 1968.

Municipal Bonds: Industrial Aid Financing-Rating Bonds. 40 Mun. Fin. 149, May 1968.

Municipal Corporations: Municipal Motor Vehicle License Tax. 21 Okla. L. Rev. 333, August 1968.

Nelson. Tax Considerations of Municipal Industrial Incentive Financing, 45 Taxes 941, 1967.

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Orr. The Incidence of Differential Property Taxes on Urban Housing, 21 Nat'l. Tax J. 253, 1968.

Pogue and Sgontz. Factors Influencing State-Local Spending, 4 Miss. Val. J. Bus. Econ. 72, Fall 1968.

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Redmann. Louisiana's Industry Inducement Laws, 15 La. B. J. 173, 1967.

Robicheck and Van Horne. Abandonment Value and Capital Budgeting, 22 J. Fin. 577, December 1967.

Rolph. "Pay-as-You-Use" Finance: A Comment, 21 Nat'l. Tax J. 210, June 1968.

This article criticizes Maxwell and Aronson's article, 20 Nat'l. Tax J. 165, June 1967, relative to Professor Musgrave's analysis of "pay-as-you-use" finance. Here the author feels that Maxwell and Aronson were justified in their criticism of Musgrave's theory, but that their approach went awry.

The article states that Musgrave's theory should be attacked from a tax-debt angle relevant to the financing of the acquisition of durable assets by a local government versus the analysis of the costs aspects of using a durable asset as related to the circumstances surrounding the acquisition of the asset. It further asserts that the inter-generation equity issue supposedly arising from the use of tax vs. debt financing by local governments is a by-product of failing to distinguish clearly between methods of financing durable assets and the costs of using them. The author concludes by reciting no conclusion. He simply states that in the end, the determination of the optimum mix of debt and tax finance for local governments requires further investigation!

Rolph. "Pay-as-You-Use": A Comment, 20 Nat'l. Tax J. 165, June 1967.

Saari. Open Doors to Justice - An Overview of Financing Justice in America, 50 Judicature 296, 1967.

Scherer. Commercial Banks and the Government Securities Market, 50 Fed. Res. New York 215, October 1968.

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Steinko. Industrial Development Financing Portends Congressional Action, 33 Am. Co. Gov't. 18, January 1968.

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Woo. Industrial Development and Its Impact on Local Finance, 8 Q. R. Econ. and Bus. 19, Summer 1968.

Yeager and Brown, Why Archaic Municipal Financing Must Give Way to New Practices, 206 Comm. and Fin. Chr. 705, August 24, 1967.

#### ARTICLES 1969-1970

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Ackerman and Ott. An Analysis of the Revenue Effect of Proposed Substitutes for Tax Exemption of State and Local Bonds, 23 Nat'l. Tax J. 397, December 1970.

Alexander. New Directions in Urban Financing, 59 Curr. Hist. 278, 1970.

Barlow. Comment on Alternative Federal Policies for Stimulating State and Local Expenditures, 22 Nat'l. Tax J. 282, 1969.

Barron and Jansma. Impact of Public Land Programs on Local Government Finances, 52 Am. J. Agric. Econ. 365-71, 1970.

Multiple regression analysis of a three county forested region of Pennsylvania was used to test the hypothesis that public land ownership adversely affected the fiscal capacity of local governments by decreasing real property tax revenues. The hypothesis proved inoperative for that region. The governments included in the study were counties, school districts, and townships. Over 20% of the land was public and included state parks, forests, and game lands as well as a portion of a national forest, but the amount of public land substantially varied from county to county. The state made a payment in-lieu of taxes of

20¢ per acre and the national government paid 55¢ per acre. The analysis revealed neither higher taxes or reduced expenditures in association with increasing amount of public land. The explanation given is that the payment in-lieu of taxes were greater than the estimated tax yields. However, the allocation of such payments was inequitable because counties and townships received substantially more than they would at current tax rates while school districts received less. Little can be concluded from the article. The area was too small and specialized to mount a strong attack of the basic hypothesis. However, if the author's analysis technique stands up to expert criticism, it could be used to analyze the effects of planned land programs--such as municipal and state programs for openspace with preferential tax assessments.

Bell and Hinkle. A Guide to Industrial Revenue Bond Financing, 9 Washburn L. J. 372, 1970.

Using a Kansas Bill, often referred to as the "Kansas Industrial Revenue Bond Act," as a model, the authors tendered more of an informative presentation than a technical explanation of the uses, purposes and limitations of industrial revenue bond financing as recently affected by 1968 Amendments to the IRC and SEC Regulations. The article concentrates, in part, on the fact that changes to Section 103 of the 1954 Code have resulted in a major curtailment of the formerly enjoyed exempt interest feature. Essentially what this has created is a complete denial of the exemption, except when the device is parred to, relatively speaking, small amounts - \$1,000,000 to \$5,000,000 - versus previous amounts commonly ranging from \$80,000,000 to \$140,000,000. Additionally, the article emphasizes that the SEC through a simple administrative interpretation has recently brought such financing under its hegemony, thus subjecting most of the industrial issues to the panoply of rules and regulations formerly not bearing on the situation. The effect of these recent developments has been to engender but a "small issue" market, i.e., one composed of only those issues falling within the previously mentioned Section 103 monetary limitation and further qualifying under one of the Securities Act Exemptions, such as by intra-state sale or private placement. In browsing over the advantages the changes have wrought, the authors, while noting the cut-down in abuses of the device, such as the elimination of cheap "conduit" financing for giant corporations, also alluded to such benefits as encouragement of small local industry, disappearance of competition between communities and attraction to economically depressed areas. The authors seemed to question the rationale of the recent changes but offered no solutions or future prognosis. The article is mainly concerned with drawing wary attention to recently created problems and pitfalls run amok in the industrial revenue bond financing area. This it does.

Bergmann. The Urban Economy and the "Urban Crisis", 59 Am. Econ. Rep. 639, September 1969.

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Bowman. City-Suburban Differentials in Local Government Fiscal Effort: A Comment, 22 Nat'l. Tax J. 418, 1969.

Bradford, Malt, and Oates. The Rising Cost of Local Public Services. Some Evidence and Reflections, 22 Nat'l. Tax J. 185, June 1969.

Brady. Local Revenues vs. Shared Taxes, 42 Mun. Fin. 103, November 1969.

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Poulson. Central City Land Use and Suburban Financial Support, 46 Land Econ. 497, 1970.

Believing that the Suburbanite is not paying his fair share of the central city's fiscal burden, the author presents some innovative tax measures which are of value. The first proposal is that the city initiate a vehicle-space use tax by which a base tax would be set for a minimum auto-length. Above that base, the tax would rise for every additional half-foot to a break point of 17 ft., above which the tax would be steeply graduated. If the tax acts as a deterrent to large cars, the city gains more space and less pollution; if not, the city will be supplied with a rather substantial source of income (the current energy crisis makes this proposal rather outdated). Continuing his fight against the commuter, the author suggests the parking lot owners be assessed not only the value of their land and structure, but also the daily aggregate value for all vehicles which park-in--\$1500 per car would be a fair assessment. To free land and building space, all state and federal installations (tax exempt) should be encouraged to move to the suburbs if they are not conferring economic benefits. Many other exempt facilities--hospitals, museums, colleges--are situated in the central city and used extensively by suburbanites. Those users should be forced to share with the city tax-payer the tax exemption burden--how this is to be done is not discussed.

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Within the purview of this article, the author aptly makes evident the fact that state and local governments now lack sufficient tax and grant-in-aid revenues to provide public services and facilities as they are required. Pointing out that legal constraints, dysfunctional in effect, and increased cost for bonded debt are the two most important impediments to continued use of debt financing, the author proceeds to hypothesize that district federal reserve banks should be granted the authority to purchase state-local bonds, and in so doing would tend to lend some homogeneity of supply to the bonds, reduce the interest costs to local governments and create a secondary market, all of which is presently lacking, though direly needed. Without this or a similar solution, the author opinionates that state and local and even federal taxpayers will find that they are paying more for their capital facilities and providing larger subsidies to high income taxpayers for the privilege.

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Robinson. Industrial Revenue Bonds, Fed. Res. Phila. 3, March 1969.

Roy. State Constitutional Provisions Prohibiting the Loaning of Credit to Private Enterprise - a Suggested Analysis, 41 U. Colo. L. Rev. 135, 1969.

Concerning itself with the seemingly endless confusion surrounding the random law emanating from courts confronted with litigation challenging programs which effectuate a partnership between public and private capital, the article addresses itself to suggesting guidelines to these courts so as to lend some continuity to this area of the law. Admitting the reality, if not the wisdom, of the Public Purpose Doctrine (45 state constitutions contain provisions prohibiting the lending of public funds, derived from tax revenues, for private purposes), the author hypothesises and discusses four questions the courts might pose and answer to arrive at a judicially reasoned decision over the constitutionality and general acceptability of a municipally financed private venture. Said questions are as follows:

- (1) Does the transaction under consideration involve a sufficient purpose to satisfy the Fourteenth Amendment Due Process provisions?
- (2) Are the tax-derived general funds of the governmental entity placed in jeopardy by the transaction?
- (3) Does the transaction substitute private management for public management as to the advent and the amount of liability to be sustained by the general tax base?

The article attempts to bulwark the author's theory that the protection of the tax base intended in the credit lending provisions can be afforded, and their original intent implemented, by a careful analysis based primarily on a narrow structure and application of the credit lending provisions. It is stated that such an analysis could be implemented through the structured use of the above-mentioned questions.

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Sentell. Self-Interest and Municipal Purchasing: How Now?, 5 Ga. S.B.J. 309, February 1969.

Shannon. Financing Cities: The Case for New Federalism, 1 Growth and Change 33, October 1970.

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Comment. Public Trusts-Constitutional Debt Restrictions on Governmental Subdivision Beneficiaries Not Violated by Trustee's Issuance of Revenue Bonds, 46 Tulane L. Rev. 1052, 1972.

Local governments, faced with urgent capital improvements and voter apathy or opposition, can avoid bond referendum and debt ceilings by establishing a public trust which can then issue revenue bonds without voter approval. After Louisiana hospital district voters rejected a bond proposal for renovation and expansion of a hospital, the district's board of directors, pursuant to state statutes, created a public trust authorized to sell revenue bonds and granted the trust a long term lease of the hospital. The trustee then mortgaged the hospital for revenue bonds. This was not violative of the state constitutional provisions for debt ceilings or taxpayers votes on revenue bonds. Bertrand v. Sandoz, 260 La. 239, 255 So.2d 754 (1971).

At present, only Louisiana, Arkansas, Oklahoma and New Mexico have such statutory provisions for governmental public trusts and in those states there is little case law on the scope of these trusts. Although this maneuver obtains the needed improvements, the costs to evade debt ceilings and voter opposition are much higher than if the entity itself would issue the bonds. Also, this presents a serious question of the ethics of circumventing the democratic process. However, this could be a viable alternative for special districts and municipalities faced with a "taxpayer's revolt" and urgent public needs without having to confront a hostile electorate, wait for state appropriations, or raid other worthy budget items for the funds needed.

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Comment. Rights of Non-Property Owners to Participate in Special Assessment Majority Protests, 20 U.C.L.A.L. Rev. 201, 1972.

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Comment. Tax-Exempt State and Local Bonds: Form of Inter-governmental Immunity and Form of Intergovernmental Obligation, 21 De Paul L. Rev. 757, 1972.

The "guaranteed taxable municipal bond approach" permits the federal government to tax income from municipal bonds yet not unduly burden the costs of local government financing. Through this technique, now used in only three programs, the federal government lends funds to local agencies and receives bonds as evidence of the indebtedness. These bonds can then be sold by the federal government at a rate which is taxable since they are no longer tax-exempt bonds under I.R.C. 103. Thus municipalities are guaranteed a low cost bond market and Washington is guaranteed tax revenues on otherwise exempt personal income. This could prevent a possible showdown between state and federal authorities since without express constitutional provisions for governmental tax immunity, only I.R.C. 103 and Pollack v. Farmers' Loan and Trust Co., 158 U.S. 601(1895) limits federal taxation. The author also presents a survey of case law on the development of this immunity.

This approach could be the wave of the future in as much as Congress has proposed its use in the Environment Financing Authority and in the Urban Development Bank. Such an approach could significantly widen the range of prospective municipal bond buyers since the exemption now has its greatest impact on the high tax bracket investors. Now institutional investors, such as banks, will be taxed on income from these secure investments.

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Laird and Rinehart. A Refinement of Local Industrial Subsidy Techniques: Further Reply, 7 Miss. Vol. J. Bus. Econ. 90, Winter 1971-72.

Levitt. Municipal Bond Ratings, 1 Gov't. Fin. 4, 1972.

Lilley. Both Parties Ready to Scrap Grant Programs in Favor of City Strategy Package of Aid, 3 Nat'l. J. 1393, 1971.

Lynn. Financing Modernized and Unmodernized Local Government in the Age of Aquarius, Utah L. Rev. 30, 1971.

The inability of local government to adapt to modern problems and the stagnation of state government are the key road blocks to the design and administration of fair and productive tax systems and the efficient use of tax revenues. Three prerequisites are proposed for an effective and equitable state-local revenues system. First, Governments must clearly define problems since voter unwillingness to pay the price for solutions means voters do not consider the problems serious. Personal income taxes and retail sales taxes should become the mainstay of state-raised funds. This must be coupled with provisions for shielding low income households from excessive sales taxes and a tough state policy on the use of transferred funds by local governments. Local action should include reform of the property tax and the development of local non-property taxes such as user charges and income tax.

Lynn has gleaned from many sources various approaches to reform the property tax including administrative proposals. This article is not only a clear and concise statement of the structural-functional problems of government financing, but also identifies a framework for constructing a sound fiscal foundation.

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Schneiderman. Planned and Actual Long Term Borrowing by State and Local Governments, 57 Fed. Res. Bull. 977, December 1971.

Seenley. Determinants of Governmental Expenditures within Metropolitan Areas, 30 Am. J. Econ. Soc. 345, October 1971.

Stewart. The Limits of Municipal Income Taxation: The Response in Ohio, 7 Harv. J. Legis. 271, 1971.

The author here extensively treats the pros and cons of the municipal income tax. Though seeming to lean toward support of such a method of raising municipal revenue, the main thrust of the article is to point out the problems presently being experienced by cities which have imposed the tax. The main problem areas discussed were those relating to equitable allocation, administrative efficiency, revenue yield, jurisdiction and lack of uniformity. The author follows up the pointing out of these troublesome areas with an explanation of the Sealy Bill, an Ohio statute, which has attempted to alleviate as much of the disparity and inconsistency found in most city income tax ordinances as feasibly possible. The most important and unique feature of the Bill is its method of revenue allocation. The Bill distributes revenue to the state's local taxing units, including school and library districts, in principally one of two ways. A given unit receives the greater of either a guaranteed or an amount determined by formula which is intended to closely approximate its fiscal needs. The former calculation insures that no taxing unit will lose money under the operation of the proposed distribution formula, while the latter is designed to allocate tax revenue according to need rather than on the basis of where revenue is produced. The Bill seeks to provide income tax revenue to other taxing units in addition to counties, municipalities and townships. This innovative

distribution scheme creates uniformity in application and makes one particular political body, the state legislature, responsible for coordination of the revenue raised from the accumulated municipal income taxes. The author concludes that without such a state-wide scheme of distribution, the problems created by more and more autonomous taxing units imposing their own different and conflicting tax definitions, regulations, forms and rates, would probably be enough to make taxation by these separate units politically unacceptable and administratively unmanageable.

Storage and Gong. The Florida Industrial Development Financing Act: Public-Private Investment and Social Engineering, 24 U. Fla. L. Rev. 433, 1972.

The article is dedicated solely to the effect upon Florida's economy due to the enactment of state legislation authorizing industrial revenue bonds. The authors wholeheartedly endorsed the act, alluding to its benefits and generally dismissing any real or hypothetical detriments it might harbor. The act supersedes a hodge-podge of local acts which embodied varying criteria and procedures which had tended to exert a disastrous effect upon Florida's ability to compete for the Nation's industries. Although up to the time of the publication of the article there had been a dearth of public bond issues based on the act, (only two), it was the authors' opinion that the use of such issues would steadily rise and that hard-core unemployment of the urban ghettos and the incidents of low income in rural Florida would be dramatically reduced with wise utilization of the act in creating new jobs and balancing the economy while simultaneously fighting pollution of the environment. Moreover, it was proffered that the act promised possibilities of involving establishments, too often pre-occupied with profit spreads, in the socially essential task of improving the living conditions of America's underprivileged. It also should be noted that the article thoroughly treated the exempt interest feature as affected by the 1968 amendments to Section 103 of the 1954 Code and went into the problems posed by the SEC's recent intrusion into the field with resultant registration requirements and other limitations. All told, the authors presented a clear picture of the past, present and future utility of industrial bond financing in Florida and painted it to be one desirable to any locale.

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The California Joint Exercise of Power Act which permits local governmental bodies to form regional authorities and to issue revenue bonds for regional public buildings without voter approval has been prostituted by these bodies into devices to circumvent super-majority requirements for general obligation bonds. Rather than using the act to attack regional problems, the authorities construct facilities and then lease them to the government entity desiring them, thus saving that entity a battle at the polls. The only weapon available to the voter is to subject the ordinance authorizing the special authority to a referendum. The author contends the act is not being used to its full potential, such as financing sewage treatment facilities, electric plants, and airports, since most uses are to avoid the 2/3 requirement. The solution is to limit the use of the act to true revenue producing projects and reduce the job vote requirements to encourage use of these less costly bonds for public buildings.

This is an example of how the supermajority requirements of jobs not only force local governments to seek higher cost financial methods but also inhibits regional approaches to problems by using tools of cooperation as tools of subterfuge. If Missouri is unable to abandon the 2/3 majority, this may be a viable alternative. However, the best use is to allow governments to form Municipal Improvement Districts to finance local capital construction presently the burden of the multitude of special districts, thus freeing more special district funds for administrative and planning needs.

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The author performed simulations of the impact of a taxable municipal bond option with a model of the U.S. Capital Markets. Although the explanations of the model and how policy decisions' impacts can be simulated are incomprehensible to one newly initiated to the field, the conclusions are not. The author stimulated the impact of optional taxable bonds with a 33%, 40% and 50% federal subsidy and found all to be a significant improvement over the use of tax exempts as a means of transferring funds to state/local governments from the federal level. The 50% subsidy is recommended since it would virtually eliminate new issues of tax exempts and would provide about \$1 billion of interest savings for state and local governments. The 33% and 40% subsidies would not eliminate tax exempt bonds, but the 33% subsidy could be given at almost no cost to the Federal Government. However, because the 50% subsidy would eliminate new issues of tax exempts, the cost to the federal government for that subsidy would be less than the 40% subsidy while the interest costs saved to the local/state governments would be twice as much. Thus the 50% rate would provide the most benefit to state/local governments and the least cost to the U.S. treasury while eliminating the inequities of the present tax-exempt system.

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Kummerfeld and Petersen. Are Taxable Municipal Bonds, in Your City's Future, Nation's Cities 21, July 1973.

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Moon, T. A. and Moon, W. D. Property Tax, Governmental Services and Equal Protection, 18 Vill. L. Rev. 527, 1973.

Nolan. Recent Developments in Federal Taxation, 22 Tulane Tax Inst. 1, 1973.

Pozen. Financing of Local Housing Authorities: A Contract Approach to Public Corporations, 82 Yale L. J. 1208, 1973.

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Although the purpose of this article is to point out that the effects on the economy of Federal Budget Deficits have been improperly analyzed because of the disregard of state and local governments' expenditures, it brings to light a new phenomena at the state and local level--a surplus of revenue. Traditionally, state and local governments have operated with a relatively balanced budget. Therefore, when the stimulating or depressing effects of public deficits and surpluses were analyzed only the federal budget was considered. However, state and local governments posted a surplus of \$3 billion in 1970, \$5 billion in '71, and \$12 billion in 1972 while the total federal deficit for 1972 was only \$18 billion. The reasons for the surpluses are increased rate of growth in non-federal revenue resulting from increased tax rates and sources, higher tuition and fees for public education, and increased federal aid. At the same time, local public capital improvements have greatly declined since the end of the new school construction boom in 1968, and voter rejections of bond issues have accelerated. Because of these new surpluses the stimulant effects of Federal deficits may have been over-estimated. Because of the long tradition of state and local governments operating on balanced budgets, the author does not expect the trend to continue. Tax reduction at state levels may be expected; but such changes in tax legislation takes time, and the author expected the surpluses to have continued throughout 1973 and the early part of 1974.

Rubenfield. Credit Ratings and the Market for General Obligation Bonds, 26 Nat'l. Tax J. 17, March 1973.

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Schwartz. Municipal Services Litigation after Rodriguez, 40 Brooklyn L. Rev. 93, 1973.

Sikorsky. Local Control over Federally Funded Projects, 19 N.Y.L.F. 113, 1973.

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Heavily concerned with the New York area, the article notes that while the transfer of funds from the highway trust funds to Urban transportation systems would be supported, the program is restricted to capital grants and does not include any assistance to transit operating costs. An income tax surcharge and profit tax on corporations has been proposed for New York and would allow elimination of bus and subway fares. Supported by the principle that public transit is an essential public service which should be financed by taxpayers as are fire, police and educational services, the no-fare system would be the most equitable as it relieves poor people who are the most dependent on public transit of a major financial burden (children, the aged, the handicapped, and the unemployed need public transit the most but are the ones who have been least able to pay the ever increasing fares). Further, a no-fare system will encourage public utilization, thus reducing air pollution and traffic congestion. However, many transit systems are already overburdened and congested. No-fare proponents also ignore the fact that fare is only one factor considered by potential riders. Therefore, a no-fare system should be preceded by a modernization and expansion program.

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